

HOUSE BILL 1280

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CF SB 646

By: **Delegates Feldman, Barkley, Braveboy, Harrison, Hecht, King, Kirk, Love, Manno, Mathias, McHale, Minnick, Taylor, and Vaughn**
Introduced and read first time: February 18, 2010
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Presumptions**

3 FOR the purpose of altering the occupational disease presumption under the workers'
4 compensation law as applied to certain firefighters, certain fire fighting
5 instructors, certain rescue squad members, certain advanced life support unit
6 members, and certain sworn members of the Office of the State Fire Marshal;
7 providing that certain diseases and cancers are considered occupational
8 diseases suffered in the line of duty and are compensable in a certain manner;
9 providing that a certain presumption applies only if certain circumstances are
10 met; and generally relating to the occupational disease presumption for certain
11 diseases and cancers under the workers' compensation law.

12 BY repealing and reenacting, with amendments,
13 Article – Labor and Employment
14 Section 9–503
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2009 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Labor and Employment**

20 9–503.

21 (a) A paid firefighter, paid fire fighting instructor, or sworn member of the
22 Office of the State Fire Marshal employed by an airport authority, a county, a fire
23 control district, a municipality, or the State or a volunteer firefighter, volunteer fire
24 fighting instructor, volunteer rescue squad member, or volunteer advanced life
25 support unit member who is a covered employee under § 9–234 of this title is

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 presumed to have an occupational disease that was suffered in the line of duty and is
2 compensable under this title if:

3 (1) the individual has heart disease, hypertension, or lung disease;

4 (2) the heart disease, hypertension, or lung disease results in partial
5 or total disability or death; and

6 (3) in the case of a volunteer firefighter, volunteer fire fighting
7 instructor, volunteer rescue squad member, or volunteer advanced life support unit
8 member, the individual has met a suitable standard of physical examination before
9 becoming a firefighter, fire fighting instructor, rescue squad member, or advanced life
10 support unit member.

11 (b) (1) A paid police officer employed by an airport authority, a county,
12 the Maryland–National Capital Park and Planning Commission, a municipality, or the
13 State, a deputy sheriff of Montgomery County, or, subject to paragraph (2) of this
14 subsection, a deputy sheriff of Baltimore City, Montgomery County correctional officer,
15 Prince George’s County deputy sheriff, or Prince George’s County correctional officer is
16 presumed to be suffering from an occupational disease that was suffered in the line of
17 duty and is compensable under this title if:

18 (i) the police officer, deputy sheriff, or correctional officer is
19 suffering from heart disease or hypertension; and

20 (ii) the heart disease or hypertension results in partial or total
21 disability or death.

22 (2) (i) A deputy sheriff of Baltimore City, Montgomery County
23 correctional officer, Prince George’s County deputy sheriff, or Prince George’s County
24 correctional officer is entitled to the presumption under this subsection only to the
25 extent that the individual suffers from heart disease or hypertension that is more
26 severe than the individual’s heart disease or hypertension condition existing prior to
27 the individual’s employment as a deputy sheriff of Baltimore City, Montgomery
28 County correctional officer, Prince George’s County deputy sheriff, or Prince George’s
29 County correctional officer.

30 (ii) To be eligible for the presumption under this subsection, a
31 deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
32 George’s County deputy sheriff, or Prince George’s County correctional officer, as a
33 condition of employment, shall submit to a medical examination to determine any
34 heart disease or hypertension condition existing prior to the individual’s employment
35 as a deputy sheriff of Baltimore City, Montgomery County correctional officer, Prince
36 George’s County deputy sheriff, or Prince George’s County correctional officer.

37 (c) A paid firefighter, paid fire fighting instructor, or a sworn member of the
38 Office of the State Fire Marshal employed by an airport authority, a county, a fire
39 control district, a municipality, or the State or a volunteer firefighter, volunteer fire

1 fighting instructor, volunteer rescue squad member, or volunteer advanced life
2 support unit member who is a covered employee under § 9-234 of this title is
3 presumed to be suffering from an occupational disease that was suffered in the line of
4 duty and is compensable under this title if the individual:

5 (1) has leukemia, **MULTIPLE MYELOMA, MELANOMA**, or pancreatic,
6 prostate, rectal, [or] throat, **ESOPHAGEAL, LYMPHATIC, TESTICULAR, BRAIN,**
7 **LUNG, BLADDER, KIDNEY, BREAST, LIVER, OVARIAN, CERVICAL, OR URETHRAL**
8 **cancer, OR CANCER LOCATED IN THE DIGESTIVE SYSTEM** that is caused by contact
9 with a toxic substance that the individual has encountered in the line of duty;

10 (2) has completed at least 5 years of service as a firefighter, fire
11 fighting instructor, rescue squad member, or advanced life support unit member or in
12 a combination of those jobs in the department where the individual currently is
13 employed or serves;

14 (3) is unable to perform the normal duties of a firefighter, fire fighting
15 instructor, rescue squad member, or advanced life support unit member in the
16 department where the individual currently is employed or serves because of the cancer
17 or leukemia disability; and

18 (4) in the case of a volunteer firefighter, volunteer fire fighting
19 instructor, volunteer rescue squad member, or volunteer advanced life support unit
20 member, has met a suitable standard of physical examination before becoming a
21 firefighter, fire fighting instructor, rescue squad member, or advanced life support unit
22 member.

23 **(D) A PAID OR VOLUNTEER FIREFIGHTER OR FIRE FIGHTING**
24 **INSTRUCTOR, A VOLUNTEER RESCUE SQUAD MEMBER, AN ADVANCED LIFE**
25 **SUPPORT UNIT MEMBER, OR A SWORN MEMBER OF THE OFFICE OF THE STATE**
26 **FIRE MARSHAL EMPLOYED BY AN AIRPORT AUTHORITY, A COUNTY, A FIRE**
27 **CONTROL DISTRICT, A MUNICIPALITY, OR THE STATE WHO IS A COVERED**
28 **EMPLOYEE UNDER § 9-234 OF THIS TITLE IS PRESUMED TO HAVE AN**
29 **OCCUPATIONAL DISEASE SUFFERED IN THE LINE OF DUTY AND IS**
30 **COMPENSABLE UNDER THIS TITLE IF THE INDIVIDUAL:**

31 **(1) HAS A STRAIN OF HEPATITIS GENERALLY RECOGNIZED BY THE**
32 **MEDICAL COMMUNITY, MENINGOCOCCAL MENINGITIS, OR TUBERCULOSIS**
33 **CAUSED BY AN EXPOSURE DURING THE PERFORMANCE OF DUTIES ASSOCIATED**
34 **WITH THE INDIVIDUAL'S EMPLOYMENT THAT RESULTS IN PARTIAL OR TOTAL**
35 **DISABILITY OR DEATH; AND**

36 **(2) DID NOT SUFFER FROM THIS OCCUPATIONAL DISEASE AT THE**
37 **TIME OF EMPLOYMENT OR, IN THE CASE OF A VOLUNTEER FIREFIGHTER,**
38 **VOLUNTEER FIRE FIGHTING INSTRUCTOR, VOLUNTEER RESCUE SQUAD**
39 **MEMBER, OR VOLUNTEER ADVANCED LIFE SUPPORT UNIT MEMBER, HAS MET A**

1 SUITABLE STANDARD OF PHYSICAL EXAMINATION THAT DEMONSTRATED THAT
2 THE INDIVIDUAL DID NOT SUFFER FROM THIS OCCUPATIONAL DISEASE BEFORE
3 BECOMING A FIREFIGHTER, A FIRE FIGHTING INSTRUCTOR, A RESCUE SQUAD
4 MEMBER, OR AN ADVANCED LIFE SUPPORT UNIT MEMBER.

5 [(d)] (E) (1) (i) A paid law enforcement employee of the Department
6 of Natural Resources who is a covered employee under § 9–207 of this title and a park
7 police officer of the Maryland–National Capital Park and Planning Commission is
8 presumed to have an occupational disease that was suffered in the line of duty and is
9 compensable under this title if the employee:

10 1. is suffering from Lyme disease; and

11 2. was not suffering from Lyme disease before
12 assignment to a position that regularly places the employee in an outdoor wooded
13 environment.

14 (ii) The presumption under this subsection for a park police
15 officer of the Maryland–National Capital Park and Planning Commission shall only
16 apply:

17 1. during the time that the park police officer is assigned
18 to a position that regularly places the park police officer in an outdoor wooded
19 environment; and

20 2. for 3 years after the last date that the park police
21 officer was assigned by the Maryland–National Capital Park and Planning
22 Commission to a position that regularly placed the officer in an outdoor wooded
23 environment.

24 (2) (i) An employee of the Maryland–National Capital Park and
25 Planning Commission other than a park police officer is presumed to have an
26 occupational disease that was suffered in the line of duty and is compensable under
27 this title if the employee:

28 1. is suffering from Lyme disease; and

29 2. was not suffering from Lyme disease before
30 assignment to a position that regularly places the employee in an outdoor wooded
31 environment.

32 (ii) The presumption under this paragraph shall apply only if:

33 1. for the 12–month period before the filing of the claim
34 for workers’ compensation under this section, the employee:

1 A. has not been employed by the Maryland–National
2 Capital Park and Planning Commission as a seasonal or intermittent employee; and

3 B. has been employed by the Maryland–National Capital
4 Park and Planning Commission on a full–time basis;

5 2. the employee’s assignment to a position that regularly
6 places the employee in an outdoor wooded environment lasted for at least 1 year; and

7 3. the employee files the claim for workers’
8 compensation on or before the third anniversary of the last date that the employee was
9 assigned to a position that regularly placed the employee in an outdoor wooded
10 environment.

11 **[(e)] (F)** (1) Except as provided in paragraph (2) of this subsection, any
12 paid firefighter, paid fire fighting instructor, sworn member of the Office of the State
13 Fire Marshal, paid police officer, paid law enforcement employee of the Department of
14 Natural Resources, a park police officer or employee of the Maryland–National Capital
15 Park and Planning Commission, deputy sheriff of Montgomery County, deputy sheriff
16 of Baltimore City, Montgomery County correctional officer, deputy sheriff of Prince
17 George’s County, or Prince George’s County correctional officer who is eligible for
18 benefits under subsection (a), (b), (c), or **[(d)] (E)** of this section or the dependents of
19 those individuals shall receive the benefits in addition to any benefits that the
20 individual or the dependents of the individual are entitled to receive under the
21 retirement system in which the individual was a participant at the time of the claim.

22 (2) The benefits received under this title shall be adjusted so that the
23 weekly total of those benefits and retirement benefits does not exceed the weekly
24 salary that was paid to the paid law enforcement employee of the Department of
25 Natural Resources, a park police officer or employee of the Maryland–National Capital
26 Park and Planning Commission, firefighter, fire fighting instructor, sworn member of
27 the Office of the State Fire Marshal, police officer, deputy sheriff, or Prince George’s
28 County or Montgomery County correctional officer.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2010.